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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,746	08/04/2003	Gregory S. Snider	0275S-000759	5356
27572	7590	04/05/2005	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303				SWENSON, BRIAN L
ART UNIT		PAPER NUMBER		
		3618		

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/633,746	SNIDER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Brian Swenson	3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 April 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4/19/04</u> .	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Specification***

1. The use of the trademark "workmate" and "Black & Decker Inc." in paragraph [0021] on page 4 of the specification has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Objections***

2. Claim 8 is objected to because of the following informalities: the claim ends with two periods. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 16 recite the limitation "said bag" in line 1 of the claims. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 5 and claim 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,720,021 issued to Byrns.

Byrns teaches in Figures 1-5 and respective portions of the specification of a work box with a base (12) with at least one extending side wall (20) enclosing a tool retaining area; an interruption (40) defining a gap in said base (Figure 2). In regards to the functional recitation that the interruption defining the gap is for receiving a support for mounting said base on the support has not been given patentable weight, because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a “means” for performing the specific function, as set forth in 35 USC § 112, 6<sup>th</sup> paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language.

In regards to claims 5 and 6, as shown in Figures 2 and 3 the planar portion of the handle (50) forms a cover. Figure 1 shows the box is generally rectangular.

5. Claims 1, 3 and claim 6, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,435,389 issued to Sucher.

Sucher teaches in Figures 1-12 and respective portions of the specification of a: work box with a base (See Figure 1, the base is taken to be the lowermost portions of the work box) with at least one extending side wall (20) enclosing a tool retaining area (Figure 1); an interruption defining a gap in said base (see gap between sides shown in Figure 2), the interruption defining a gap for receiving a support for mount the base on the support (Figure 3). In regards to claim 6 the container taught by Sucher has a rectangular base and thus an overall rectangular shape.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 2, 4-5 rejected under 35 U.S.C. 103(a) as being unpatentable over Sucher, as applied to claim 1 above, in view of U.S. Patent No. 5,647,453 issued to Cassells.

Sucher discloses the claimed invention except for teaching of a strap for securement to the support, Sucher also does not teach of a power outlet on the exterior, Sucher also does not teach of a cover.

Cassells teaches in Figures 1-5 and respective portions of the specification of a work box for attaching to a support, and specifically teaches of securing the work box to the ladder by a plurality of straps (12,14; Col. 3, lines 60+). Cassells teaches of a power

outlet (46) provided on the exterior of the work box. Cassells, additionally, teaches of a cover (32,34) in Figure 1.

It would have been obvious to one having ordinary skill in the art at the time of invention to provide a plurality of straps, as taught by Cassells in the invention taught by Sucher to provide the advantage of removably securing the work box to the support, as taught by Cassells (Col. 3, lines 65-67). It would have been obvious to one having ordinary skill in the art at the time of invention to provide a power outlet on the exterior of the work box, as taught by Cassells in the invention taught by Sucher to provide the advantage of providing a power outlet for power tools carried by the work box. It would have been obvious to one having ordinary skill in the art at the time of invention to provide a cover, as taught by Cassells in the invention taught by Sucher to provide the advantage of protecting tools carried by the work box from weather.

7. Claims 7-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sucher in view of Cassells, as applied to claims 1-6 above, in view of U.S. Patent Design No. 482,208 issued to Fortin et al.

Sucher as modified by Cassells disclose the claimed invention including teaching of supporting the work box on a horizontal support by an interruption in the base of the work box. Sucher as modified by Cassells do not teach of a separate mobile work table.

Fortin et al. teach of a well-known portable work table including teaching of a table portion, base portion, and wheels (Figure 1). Fortin et al. show the table is collapsible in Figure 6. It would have been obvious to one having ordinary skill in the art

at the time of invention to place the work box taught by Sucher and as modified by Cassells on the lower horizontal support, shown by Fortin et al. in Figure 1. One would be motivated to provide a mobile work table for the work box, to provide the advantage of providing a mobile unit for a user that allows the user's tools and work stand to be moved integrally.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,286,824 issued to Sagol teaches of a collapsible work table..

U.S. Patent No. 6,766,881 issued to Carry teaches of a ladder mounted tool holder.

U.S. Design Patent No. 447,630 issued to Sulder teaches of a tool storage box.

U.S. Patent No. 6,564,941 issued to Hedges teaches of a ladder mounted tool storage box.

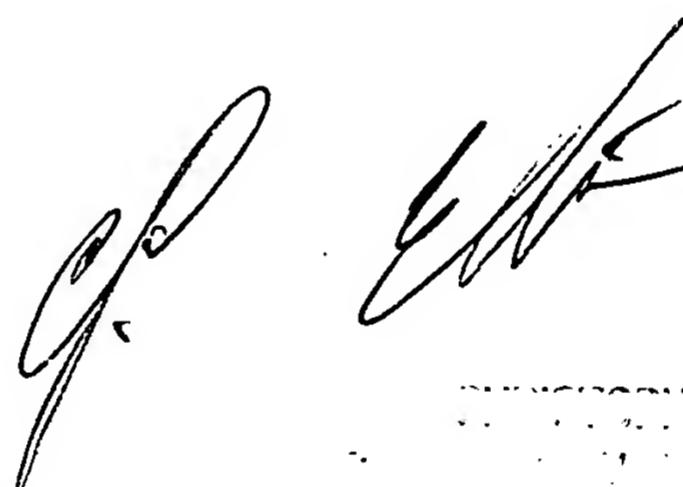
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (703) 305-8163. After April 5<sup>th</sup> the examiner can be reached at (571) 272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian Swenson  
Examiner  
Art Unit 3618

BLIS 3/29.05  
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